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DECREE GOVERNING THE TREATMENT OF SUBMARINES IN SPANISH WATERS¹

OFFICE OF THE PRIME MINISTER

Exposition

SIR: Realizing the convenience of definitely fixing the rules to which Spain, as a neutral Power during the actual war conditions, should adjust its conduct, it was declared by Royal Decree of November 23, 1914, that for the purpose of the neutrality proclaimed by Spain in relation to the present war, all authorities and state officials should adjust their conduct and their orders to the precepts contained in the XIII Hague Convention of 1907, relative to the rights and duties of neutral Powers in case of maritime war, which convention was provisionally accepted by Spain until the restoration of peace.

By virtue of that decree, which has not been modified heretofore by any special provisions, the Spanish Government has been applying the rules established by the Hague Convention both generally, and in many instances subsidiarily, inasmuch as the application of the provisions of several of the articles of that pact is limited to the circumstance of there being no special provisions in the laws of the interested neutral Power.

This legal condition, in force within Spanish ports and jurisdictional waters, could not, however, assume an immutable character. Aside from the sovereign powers of a state, especially in matters to which it did not bind itself by any international agreement, it is acknowledged in the preamble of the same Hague Convention that each nation has the power to modify the precepts contained therein in case actual experience should reveal the necessity to do so in order to safeguard its rights.

This case, in the opinion of Your Majesty's Government, is at hand; the Government has been able fully to realize that the rules set forth in the XIII Hague Convention of 1907, relative to the rights and duties of neutral Powers in case of maritime war, notwithstanding the fact that they were the outcome of carefully thought out negotiations and compromise between opposite points of view brought into the discussions

¹ Annex to the Royal circular order No. 601.

of the Second Peace Conference by the delegates of the Powers, yet they do not fully answer any more the purpose which inspired them, due to the evolution — more rapid in point of fact than in point of law — of the military elements used by the belligerent Powers. Special attention is called to the extreme general character of the principles laid down in said convention, there being no provisions for certain cases which either were not foreseen in 1907, or it was not presumed that they could assume the importance they have in later times acquired in practice.

Such is the case with the employment of submarines in the present war. The means at the disposal of these vessels, and their use in destructive operations, to an extent and with a range which could not be foreseen by those legislators, — a use which has been the subject of express reservations and protests of neutral nations, amongst them, Spain, — have changed, in the opinion of Your Majesty's Government, the legal bases on which some of the provisions of the Hague Convention found their existence.

And if, while this convention has up to the present time been in force among us, the Government, following the example of other neutral nations, some of them already belligerents, has faithfully and loyally applied its principles, the experience repeatedly acquired advises — having in view the national convenience — the amendment of some of its articles; leaving in force all those which are not affected by such amendment, to serve as a doctrinal body and compilation of legal precepts which have been unexcelled until now.

Your Majesty's Government does not pretend to set down as permanent and invariable any definition of principles. Happier days will arrive when the nations shall rise to establish those rules which shall better satisfy universal judicial conscience in regard to such important and transcendental matters of public international law; but in the meantime the Government would not fulfill its most sacred mission if, conscious of its duty to Spain, it should not safeguard its rights and interests, and forestall the dangers which an omission in its foresightedness might bring upon the nation which Your Majesty rules with such great love and high discernment of its needs.

To this end, in accord with the members of the Cabinet, and maintaining in force all those provisions of the aforesaid XIII Hague Convention which are not affected thereby, I have the honor to submit to Your Majesty, as an addition thereto, and with the provisional and

limited character determined by Art. 1st of the Royal Decree of November 23, 1914, the following project of Decree.

MADRID, *June 29, 1917.*

SIR:

At the Royal Feet of Your Majesty,
EDUARDO DATO.

Royal Decree

At the proposal of my Cabinet of Ministers,
I hereby decree as follows:

Article I. All submarine vessels of any kind whatsoever, of belligerent Powers, are hereby forbidden to navigate in Spanish jurisdictional waters, or to enter the ports of this nation.

Article II. All submarine vessels referred to in the preceding article entering Spanish jurisdictional waters for any cause whatsoever, shall be interned until the end of the war.

Article III. Neutral submarines entering Spanish waters shall do so navigating on the surface and displaying conspicuously their national flag.

Article IV. The Royal decree of November 23, 1914, shall remain in force as to all of its provisions not modified hereby.

Given at the palace this twenty-ninth day of June, nineteen hundred and seventeen.

ALFONSO.

The Prime Minister,
EDUARDO DATO.